

Hotel operators incur Hotel Operators' Occupation Tax on room rentals to entities that would otherwise be exempt from sales tax (i.e. entities such as exclusively charitable, religious, or educational groups). See 86 Ill. Adm. Code 480.101(b)(3). (This is a GIL).

February 5, 1999

Dear Ms. Xxxxx:

This letter is in response to your letter dated January 20, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I recently spoke with PERSON with the Illinois Department of Revenue regarding the federal government's tax obligation for hotel rooms for government witnesses which are paid centrally and directly by the United States government. At PERSON's suggestion and in light of the information she provided regarding taxes on hotel operators versus tax on rooms, I believe it would be helpful to seek a letter ruling from your office on this subject.

As the TITLE, I frequently arrange travel and lodging for witnesses traveling some distance to attend court. In recent years, the U.S. government has made provisions for direct payment of subpoenaed witnesses' transportation and lodging. Rather than reimburse a witness for his or her lodging expense, each district office has the option to reserve the room and provide the hotel with a non-plastic credit card number designated for lodging as set out in a Memorandum of Understanding between the AGENCY and the hotel.

My contact in the office at the AGENCY2 noted that although employees on official travel are not exempt from state taxes because the employee is responsible for payment of the lodging, in the case of witnesses, the room rate is paid directly and centrally by the U.S. government and may not be subject to state taxes. She also cited the government's tax exempt status related to the Government purchase card. I have enclosed a copy of our tax exemption identification number for your information; however, I realize there is a distinction between sales and hotel tax.

I have tried to be as specific as possible in outlining our current procedures; however, if you have additional questions, I may be reached at #####. Please direct your ruling to my attention at the ADDRESS. Thank you for your assistance.

Pursuant to 86 Ill. Adm. Code 130.2080, enclosed, sales of tangible personal property made to governmental bodies (Federal, State, local, or foreign) are not subject to Retailers' Occupation Tax (sales tax). In order to make a tax exempt purchase, governmental bodies must have an active exemption identification number issued by the Department. It is important to note that only sales of tangible personal property invoiced to the governmental body itself are exempt. Sales made to individual government employees are generally subject to tax, even though the employees may be traveling on government business. Please see the enclosed copy of 86 Ill. Adm. Code 130.2007 for information on applying for an exemption number.

However, Illinois retailers may accept U.S. Government Bank Cards in sales to the U.S. Government and its agencies without requiring an Illinois exemption number. When making a purchase, the holder of the card presents it to the retailer, who records the card number instead of collecting tax.

We have enclosed a copy of 86 Ill. Adm. Code 480.101, which explains the nature, rate and scope of the Hotel Operators' Occupation Tax Act. As explained in Section 480.101(b)(3), hotel operators incur this tax on room rentals to entities that would otherwise be exempt from sales tax (i.e., entities such as exclusively charitable, religious, or educational groups, or governmental bodies that possess exemption identification numbers).

It is important to remember in connection with this tax that this is a tax imposed upon hotel operators and not upon hotel guests. The Hotel Operators' Occupation Tax Act allows hotel operators to collect an amount from their customers that represents reimbursement for the hotel operators' tax liability. Consequently, there is no tax imposed upon guests from which they can be exempted. The fact that these guests may represent entities that hold exemption identification numbers issued by the Department does not exempt them from reimbursement.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.